IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

MFA.No. 1543 of 1996()

IC.47/1994 of ESI COURT,IDUKKI
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APPELLANT - APPLICANT:

HOTEL ANANDAMANDIRAM, TEMPLE ROAD,
KOTTAYAM, REPRESENTED BY MANAGING
PARTNER MRS. SHYLA RAJENDRAN,
ANANDAMANDIRAM, KOTTAYAM.

BY ADV. SRI.DINESH R SHENOY
SRI.DINESH R.SHENOY

RESPONDENT - RESPONDENT:

THE ASSISTANT REGIONAL DIRECTOR,
ESI CORPORATION, THRISSUR.

BY ADV. SMT.T.D.RAJALAKSHMI

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 12.11.2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 1543 OF 1996

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Dated this the 12th day of November, 2007

J U D G M E N T

The applicant in I.C. No.47 of 1994 on the file of the Employees Insurance Court, Idukki, is the appellant. Respondent, ESI Corporation, demanded contribution from the appellant for the period from 1.3.1989 to 30.9.1992. Appellant raised a contention that it is not an establishment coverable under the Act. Overruling the objection, respondent issued a demand notice. Challenging that notice, appellant filed an application before the E.I. Court. According to the appellant it is not employing more than 10 workers and as such it is not an establishment coverable under the provisions of the Act.

2. Respondent filed a written statement contending that the establishment of the appellant is coverable. Respondent contended that assessments were made on actual basis after taking into account the inspection report and the appellant had not disputed the quantum of the amount

assessed for the aforesaid periods.

3. The only dispute was regarding the period from 1.3.1989 to 31.3.1989. Respondent has produced Exhibit B3 inspection report. A statement submitted by the appellant to the Inspector was enclosed along with Exhibit B3. In the statement appellant had stated that it was employing 16 regular workers from 15.11.1985. It was also admitted that the appellant establishment is using electrical appliances like wet grinder, deep freezer, etc., from 15.11.1985.

4. The evidence on record shows that there are more than 10 employees in the establishment and the establishment was using power in the process of manufacturing. It is an establishment which comes within the definition of Factory as defined in Section 2(a) of the Act. The finding of the E.I. Court that the appellant is liable to pay contribution for the period from 1.3.1989 to 31.3.1989 is only to be confirmed. Regarding the claim for the period from 1.4.1989 to 30.9.1992, the E.I. Court directed the respondent to finalise the assessment. So the appellant can have no grievance for that period in this proceedings. The facts and circumstances

discussed above clearly shows that the order passed by the E.I. Court is correct and it does not call for any interference. The appeal is without any merit and the same is only to be dismissed.

In the result, appeal is dismissed.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A. 1543 of 1996

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J U D G M E N T

12TH NOVEMBER, 2007